

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE SEPTEMBER 6, 2013

AMENDED IN ASSEMBLY MAY 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 837**

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**Introduced by Assembly Member Wieckowski  
(~~Coauthors: Assembly Members Fong and Fox~~)**

February 21, 2013

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An act amend Section ~~7522.30~~ 7522.04 of the Government Code, relating to public employees' retirement.

LEGISLATIVE COUNSEL'S DIGEST

AB 837, as amended, Wieckowski. Public employees' retirement benefits.

*The California Public Employees' Pension Reform Act of 2013 (PEPRA) generally requires a public retirement system, as defined, to modify its pension plan or plans to comply with the act, as specified. Among other things, PEPRA prohibits a public employer offering a defined benefit pension plan from exceeding specified retirement formulas for new members and prohibits an enhancement of a public employee's retirement formula or benefit adopted after January 1, 2013, from applying to service performed prior to the operative date of the enhancement. PEPRA defines terms for those purposes, including defining "new member" to include an individual who becomes a member of any public retirement system for the first time on or after January 1, 2013, and who was not a member of any other public retirement system prior to that date; an individual who becomes a member of a public retirement system for the first time on or after January 1, 2013, and*

*who was a member of another public retirement system prior to that date, but who was not subject to reciprocity under specified law; or an individual who was an active member in a retirement system and who, after a break in service of more than 6 months, returned to active membership in that system with a new employer.*

*This bill would specifically exclude from the definition of “new member” a judge, as defined in specified existing law, elected to office before January 1, 2013.*

~~The California Public Employees’ Pension Reform Act of 2013 (PEPRA), on and after January 1, 2013, requires a public retirement system, as defined, to modify its plan or plans to comply with the act and, among other provisions, establishes new retirement formulas that may not be exceeded by a public employer offering a defined benefit pension plan, setting the maximum benefit allowable for employees first hired on or after January 1, 2013, as a formula commonly known as 2.5% at age 67 for nonsafety members, one of 3 formulas for safety members, 2% at age 57, 2.5% at age 57, or 2.7% at age 57, and 1.25% at age 67 for new state miscellaneous or industrial members who elect to be in Tier 2.~~

~~On and after January 1, 2013, PEPRA requires new employees of specified public employers, the California State University, and the judicial branch who participate in a defined benefit plan to have an initial contribution rate of at least 50% of the normal cost rate for that defined benefit plan, rounded to the nearest 1/4 of 1%, or the current contribution rate of similarly situated employees, whichever is greater.~~

~~This bill would make that provision applicable to new members employed by those entities and new members employed by the Legislature. The bill would except from these provisions a judge who was elected to office prior to January 1, 2013, despite not assuming that office and becoming a member of the Judges’ Retirement System II for the first time until January 1, 2013, or after that date. The bill would also specify that this contribution rate for new members shall be 50% rounded to the nearest 1/4 of 1%, unless a greater contribution rate has been agreed to through the collective bargaining process. The bill would require that, for purposes of calculating the normal cost rate, the actuarial valuation of retirement benefits includes any elements that impact the actuarial determination of the normal cost, including, but not limited to, the retirement formula, eligibility and vesting criteria, ancillary benefit provisions, and any automatic cost-of-living adjustments.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 7522.04 of the Government Code is  
2     amended to read:

3     7522.04. For the purposes of this article:

4     (a) “Defined benefit formula” means a formula used by ~~the~~ a  
5     retirement system to determine a retirement benefit based on age,  
6     years of service, and pensionable compensation earned by an  
7     employee up to the limit defined in Section 7522.10.

8     (b) “Employee contributions” means the contributions to a public  
9     retirement system required to be paid by a member of the system,  
10    as fixed by law, regulation, administrative action, contract, contract  
11    amendment, or other written agreement recognized by the  
12    retirement system as establishing an employee contribution.

13    (c) “Federal system” means the old age, survivors, disability,  
14    and health insurance provisions of the federal Social Security Act  
15    (42 U.S.C. Sec. 301 et seq.).

16    (d) “Member” means a public employee who is a member ~~of~~  
17    ~~any type of~~ a public retirement system or plan.

18    (e) “New employee” means either of the following:

19    (1) An employee, including one who is elected or appointed, of  
20    a public employer who is employed for the first time by ~~any~~ a  
21    public employer on or after January 1, 2013, and who was not  
22    employed by ~~any other~~ another public employer prior to that date.

23    (2) An employee, including one who is elected or appointed, of  
24    a public employer who is employed for the first time by ~~any~~ a  
25    public employer on or after January 1, 2013, and who was  
26    employed by another public employer prior to that date, but who  
27    was not subject to reciprocity under subdivision (c) of Section  
28    7522.02.

29    (f) ~~(1)~~ “New ~~member~~” member,” except as provided in  
30    paragraph (2), means any of the following:

31    ~~(1)~~

32    (A) An individual who becomes a member of ~~any~~ a public  
33    retirement system for the first time on or after January 1, 2013,  
34    and who was not a member of ~~any other~~ another public retirement  
35    system prior to that date.

1     ~~(2)~~

2     (B) An individual who becomes a member of a public retirement  
3 system for the first time on or after January 1, 2013, and who was  
4 a member of another public retirement system prior to that date,  
5 but who was not subject to reciprocity under subdivision (c) of  
6 Section 7522.02.

7     ~~(3)~~

8     (C) An individual who was an active member in a retirement  
9 system and who, after a break in service of more than six months,  
10 returned to active membership in that system with a new employer.  
11 For purposes of this subdivision, a change in employment between  
12 state entities or from one school employer to another shall not be  
13 considered as service with a new employer.

14     (2) *Notwithstanding any other provision of this subdivision, a*  
15 *judge, as defined in subdivision (a) of Section 75502, elected to*  
16 *office before January 1, 2013, shall not be considered a new*  
17 *member for the purposes of this article.*

18     (g) “Normal cost” means the portion of the present value of  
19 projected benefits under the defined benefit that is attributable to  
20 the current year of service, as determined by the public retirement  
21 system’s actuary according to the most recently completed  
22 valuation. For the purpose of determining normal cost, the system’s  
23 actuary may use a single rate of contribution or an age-based rate  
24 of contribution as is applicable to that retirement system.

25     (h) “Public employee” means an officer, including one who is  
26 elected or appointed, or an employee of a public employer.

27     (i) “Public employer” means:

28     (1) The state and every state entity, including, but not limited  
29 to, the Legislature, the judicial branch, including judicial officers,  
30 and the California State University.

31     (2) ~~Any~~A political subdivision of the state, or agency or  
32 instrumentality of the state or subdivision of the state, including,  
33 but not limited to, a city, county, city and county, a charter city, a  
34 charter county, school district, community college district, joint  
35 powers authority, joint powers agency, and any public agency,  
36 authority, board, commission, or district.

37     (3) Any charter school that elects or is required to participate  
38 in a public retirement system.

39     (j) “Public retirement system” means ~~any~~ a pension or retirement  
40 system of a public employer, including, but not limited to, an

1 independent retirement plan offered by a public employer that the  
2 public employer participates in or offers to its employees for the  
3 purpose of providing retirement benefits, *benefits* or a system of  
4 benefits for public employees that is governed by Section 401(a)  
5 of Title 26 of the United States Code.

6 ~~SECTION 1. Section 7522.30 of the Government Code is~~  
7 ~~amended to read:~~

8 ~~7522.30. (a) This section shall apply to all public employers~~  
9 ~~and to all new members. Equal sharing of normal costs between~~  
10 ~~public employers and public employees shall be the standard. The~~  
11 ~~standard shall be that employees pay at least 50 percent of normal~~  
12 ~~costs and that employers not pay any of the required employee~~  
13 ~~contribution.~~

14 ~~(b) The “normal cost rate” shall mean the annual actuarially~~  
15 ~~determined normal cost for the plan of retirement benefits provided~~  
16 ~~to the new member and shall be established based on the actuarial~~  
17 ~~assumptions used to determine the liabilities and costs as part of~~  
18 ~~the annual actuarial valuation. The plan of retirement benefits shall~~  
19 ~~include any elements that would impact the actuarial determination~~  
20 ~~of the normal cost, including, but not limited to, the retirement~~  
21 ~~formula, eligibility and vesting criteria, ancillary benefit provisions,~~  
22 ~~and any automatic cost-of-living adjustments as determined by the~~  
23 ~~public retirement system.~~

24 ~~(c) (1) New members employed by those public employers~~  
25 ~~defined in paragraphs (2) and (3) of subdivision (i) of Section~~  
26 ~~7522.04, the Legislature, the California State University, and the~~  
27 ~~judicial branch who participate in a defined benefit plan shall have~~  
28 ~~an initial contribution rate of at least 50 percent of the normal cost~~  
29 ~~rate for that defined benefit plan, rounded to the nearest quarter~~  
30 ~~of 1 percent, unless a greater contribution rate has been agreed to~~  
31 ~~pursuant to the requirements in subdivision (c). This contribution~~  
32 ~~shall not be paid by the employer on the employee’s behalf.~~

33 ~~(2) For purposes of this subdivision, “new member” does not~~  
34 ~~include a member who is a judge who was elected to office prior~~  
35 ~~to January 1, 2013, despite assuming the office of judge, and~~  
36 ~~becoming a member of the Judges’ Retirement System II, for the~~  
37 ~~first time on or after that date.~~

38 ~~(d) Notwithstanding subdivision (c), once established, the~~  
39 ~~employee contribution rate described in subdivision (c) shall not~~  
40 ~~be adjusted on account of a change to the normal cost rate unless~~

1 the normal cost rate increases or decreases by more than 1 percent  
2 of payroll above or below the normal cost rate in effect at the time  
3 the employee contribution rate is first established or, if later, the  
4 normal cost rate in effect at the time of the last adjustment to the  
5 employee contribution rate under this section.

6 ~~(e) Notwithstanding subdivision (e), employee contributions~~  
7 ~~may be more than one-half of the normal cost rate if the increase~~  
8 ~~has been agreed to through the collective bargaining process,~~  
9 ~~subject to the following conditions:~~

10 ~~(1) The employer shall not contribute at a greater rate to the~~  
11 ~~plan for nonrepresented, managerial, or supervisory employees~~  
12 ~~than the employer contributes for other public employees, including~~  
13 ~~represented employees, of the same employer who are in related~~  
14 ~~retirement membership classifications.~~

15 ~~(2) The employer shall not increase an employee contribution~~  
16 ~~rate in the absence of a memorandum of understanding that has~~  
17 ~~been collectively bargained in accordance with applicable laws.~~

18 ~~(3) The employer shall not use impasse procedures to increase~~  
19 ~~an employee contribution rate above the rate required by this~~  
20 ~~section.~~

21 ~~(f) If the terms of a contract, including a memorandum of~~  
22 ~~understanding, between a public employer and its public~~  
23 ~~employees, that is in effect on January 1, 2013, would be impaired~~  
24 ~~by any provision of this section, that provision shall not apply to~~  
25 ~~the public employer and public employees subject to that contract~~  
26 ~~until the expiration of that contract. A renewal, amendment, or~~  
27 ~~any other extension of that contract shall be subject to the~~  
28 ~~requirements of this section.~~